

Staff Summary Report



City Council Meeting Date: 05/20/10

Agenda Item Number: _____

SUBJECT: Request approval of a resolution authorizing the Mayor to execute an intergovernmental agreement with Maricopa County for Animal Control Services for fiscal years 2011-2013.

DOCUMENT NAME: 20100520dsnw01 **ANIMAL CONTROL (0601)** Resolution No. 2010.57

COMMENTS: Total cost for this contract is estimated to be \$190,051 for fiscal year 2010-2011.

PREPARED BY: Nancy Woods, Management Assistant (480-350-8946)

REVIEWED BY: Jeff Tamulevich, Code Enforcement Administrator (480-350-8441)

LEGAL REVIEW BY: Teresa Voss, Assistant City Attorney (480-350-8814)

DEPARTMENT REVIEW BY: Chris Anaradian, Development Services Manager (480-858-2204)

FISCAL NOTE: Sufficient funds have been budgeted in cost center 2731-7006.

RECOMMENDATION: Recommend approval of Resolution No. 2010.57 authorizing the execution of the Intergovernmental Agreement between the City of Tempe and the Community.

ADDITIONAL INFO: The City of Tempe contracts with Maricopa County Animal Care and Control (ACCS) for services within the City limits. ACCS enforces the City of Tempe leash law and rabies vaccinations for dogs under the provisions of Tempe City Code, Chapter 6. As the City's agent and in accordance with the provisions of the ordinance, ACCS is responsible for impounding dogs at large and for the destruction of unclaimed or vicious dogs and cats. This new contract will not change the basic service level as described by the terms of the agreement.

Staff Summary Report Attachment(s):
Intergovernmental Agreement – Fiscal Years 2011 – 2012 (7 pages)

RESOLUTION NO. 2010.57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE INTERGOVERNMENTAL AGREEMENT BETWEEN MARICOPA COUNTY AND THE CITY OF TEMPE FOR THE PROVISION OF ANIMAL CONTROL SERVICES.

WHEREAS, A.R.S. § 11-951 through § 11-954, provides that public agencies may enter into intergovernmental agreements for the provisions of services or for joint and cooperative action; and

WHEREAS, the City of Tempe ("Tempe") is empowered by Tempe City Charter Section 1.03 to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City; and

WHEREAS, Maricopa County ("County") is authorized to enter into and execute this Agreement; and

WHEREAS, the County maintains facilities, equipment, and trained personnel for the maintenance, control, and impoundment and/or destruction of unclaimed or vicious dogs and cats including vaccination and licensing of dogs, and rabies control; and

WHEREAS, the parties mutually desire to continue to act under an intergovernmental agreement to provide animal control services for the City of Tempe under the terms and conditions of the attached Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

The City Council authorizes the Mayor to execute the Intergovernmental Agreement between Maricopa County and Tempe, on file with the City Clerk's office.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA, this ____ day of _____, 2010.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

APPROVED AS TO FORM:

City Attorney

INTERGOVERNMENTAL
AGREEMENT

FISCAL YEARS 2011-2013

AGREEMENT FOR ANIMAL CONTROL
SERVICES

BETWEEN

Maricopa County

And

The City of Tempe

AGREEMENT FOR ANIMAL CONTROL SERVICES

This agreement is entered into by and between Maricopa County, hereinafter called COUNTY and the City of Tempe hereinafter called CITY/TOWN hereinafter collectively referred to as the "Parties".

The COUNTY maintains facilities, equipment, and trained personnel for the maintenance, control, and impoundment and/or destruction of unclaimed or vicious dogs and cats including vaccination and licensing of dogs, and rabies control; and

The Parties are authorized to enter into this Agreement by A.R.S. § 11-201(A)(3), 11-952, 11-1005(A)(3).

This Agreement contains all the terms and conditions agreed to by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Nothing in this Agreement shall be construed as a consent to any suit or waiver of any defense in a suit brought against the State of Arizona, the COUNTY, or the CITY/TOWN in any State or Federal Court.

GENERAL PROVISIONS

1. Term:

Upon its execution by both Parties this agreement is effective from July 1, 2010 through June 30, 2013. Any modification or amendment to the terms and conditions of this agreement shall be approved by both Parties in writing. Pursuant to A.R.S. § 11-952(G) this Agreement shall be filed with the COUNTY Recorder.

2. Amendment:

This Agreement supersedes all previous Agreements between the Parties concerning animal control services. Nothing in this Agreement may be modified or waived except by written amendment, duly executed by both Parties.

3. Termination:

Either party may, with or without cause, terminate this Agreement by giving the other party sixty (60) calendar days written notice of such termination. Upon termination of this Agreement, all property used in performing services under this Agreement shall be returned promptly to the Party owning or having the right to possess the same.

4. Insurance:

The Parties agree to secure and maintain insurance coverage for any and all risks that may arise out of the terms, obligations, operations, and actions as set forth in this Agreement, including but not limited to public entity insurance. The acquisition of insurance or the maintenance and operation of a self-insurance program may fulfill the insurance requirement.

5. Record Keeping and Audits:

The Parties agree to maintain and furnish to each other such records and documents pertaining to the services provided pursuant to this Agreement as may be required by this Agreement and any applicable Federal and State laws, rules and regulations. Each party, prior to conducting an audit, must give sixty (60) calendar days notice to the other party.

6. Default:

In the event of non-payment by CITY/TOWN within thirty (30) days after written notice from County, this Contract shall be terminated and COUNTY obligations hereunder shall immediately cease.

7. COUNTY Reporting Obligations:

COUNTY shall provide CITY/TOWN with quarterly routine statistical and/or management reports normally prepared by Maricopa County Animal Care & Control hereby referred to as the Department concerning the services provided pursuant to this Agreement.

8. Amendments to Ordinances:

CITY/TOWN shall not amend or repeal its ordinances directly related to the maintenance, control, and impoundment and/or destruction of unclaimed or vicious dogs and cats without giving COUNTY ninety (90) days written notice prior to implementing any changes. COUNTY may decline to enforce ordinance changes or may negotiate additional compensation for enforcement.

9. Conflict of Interest:

Pursuant to the provisions of A.R.S. § 38-511, either Party may cancel the agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of that Party is at any time while the Agreement or any extension thereof is in effect an employee of any other Party to the Agreement in any capacity to any other Party to the Agreement with respect to the subject matter of the Agreement.

10. Indemnification:

To the extent permitted by law, the COUNTY and the Department does hereby covenant and agree to indemnify, defend and hold harmless the CITY/TOWN, its officers, employees, contractees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which are the result of any act or omission of the COUNTY and the Department, its officers, employees, contractees, agents and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement.

To the extent permitted by law, the CITY/TOWN does hereby covenant and agree to indemnify, defend and hold harmless the COUNTY its officers, employees, contractees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which are the result of any act or omission of the CITY/TOWN, its officers, employees, contractees, agents and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement

11. Services:

The COUNTY agrees to provide the field services indicated in Appendix B, Services.

12. Payment for Services:

The CITY/TOWN agrees to pay the COUNTY for services performed under this Agreement in accordance with Appendix A of this Agreement as may be amended. This Agreement will be financed by the CITY/TOWN. The annual amounts due for each fiscal year shall be paid quarterly on August 1st, November 1st, February 1st, and May 1st.

13. Pricing:

Fees for services provided under this Agreement will be those currently approved by the Maricopa COUNTY Board of Supervisors, and identified on Appendix A, "Compensation Schedule." For the Fiscal year beginning July 1, 2010 and each subsequent fiscal year during the term of this Agreement, the COUNTY will notify the CITY/TOWN by April 1 of the fee Compensation Schedule for services requested and provided under this Agreement for the following fiscal year. Fees for services shall be prepared in accordance with a formula developed by the Department and the COUNTY Office of Management and Budget, in accordance with Board of Supervisors Budgeting for Results Guidelines, which require full recovery of the COUNTY's direct and indirect costs. Any fee Compensation Schedule change shall be executed as an Amendment to this Agreement. Any decision not to renew or amend this Agreement is subject to the Termination provisions of this Agreement.

14. Force Majeure:

Neither Party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures or power failures.

15. Business In Sudan Or Iran:

Both Parties certify that under A.R.S. § 35-391.06 and 35-393.06, they do not have scrutinized business operations in either Sudan or Iran.

16. E-Verification of Employees:

Both Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge:

(1) That they and each of their subcontractors, if any, warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A;

(2) That a breach of a warranty under subsection 1 above, shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract;

(3) That each Party retains the legal right to inspect the papers of any contractor or subcontractor employee who works on the contract to ensure that the contractor or subcontractor is complying with the warranty provided under subsection 1 above and that the contractor agrees to make all papers and employment records of said employee(s) available during normal working hours in order to facilitate such an inspection.

(4) That nothing herein shall make any contractor or subcontractor an agent or employee of either Party.

IN WITNESS WHEREOF, the parties enter into this Agreement:

**MARICOPA COUNTY
BOARD OF SUPERVISORS**

City of Tempe

By:

By:

Chairman

Mayor

Attest:

Attest:

Clerk of the Board

CITY/TOWN Clerk

This Agreement has been reviewed pursuant to A.R.S. § 11-952 et. seq. by the undersigned attorney, who has determined that it is in proper form and is within the power and authority granted under the laws of the State of Arizona.

By: _____
Attorney of the COUNTY

By: _____
CITY/TOWN Attorney

APPENDIX A

COMPENSATION SCHEDULE

- | | | |
|-----------|------------------------------|---|
| 1. | COUNTY Service Level: | Basic with minimum staffing adequate to
Respond to approximately 90-92% of service
Area calls |
| 2. | Service Cost | \$190,051 |

APPENDIX B

SERVICES

1. **Ordinance.** Within the CITY/TOWN, the COUNTY shall be responsible for and enforce rabies/animal control in accordance with the following sections of the CITY/TOWN Rabies/Animal Control Ordinance:

Chapter 6-Animals:
Article II: Dogs, Cats, Etc.

In addition, Maricopa County Animal Care and Control may responsible for enforcing Title 11, Chapter 7, Article 6 and Article 6.1 of Arizona Revised Statutes, and Title 13, Section 13-2910.

2. **Hours of Operation.** The COUNTY shall operate a call center from 8 a.m. to 5 p.m. seven days a week, excluding Thanksgiving, Christmas and New Years Day; the COUNTY shall provide dispatch coverage from 7:00 a.m. until 10:00 p.m. seven days a week. The COUNTY shall provide Priority 1 response services from 8:00 p.m. until 7:00 a.m., and on Thanksgiving, Christmas and New Year's Day.